

WILLMAR CITY COUNCIL PROCEEDINGS
COUNCIL CHAMBERS
WILLMAR MUNICIPAL UTILITIES BUILDING
WILLMAR, MINNESOTA

October 21, 2013
7:00 p.m.

The regular meeting of the Willmar City Council was called to order by the Honorable Mayor Frank Yanish. Members present on a roll call were Mayor Yanish, Council Members Denis Anderson, Ron Christianson, Steve Ahmann, Audrey Nelsen, Tim Johnson, Jim Dokken, Rick Fagerlie and Bruce DeBlieck; Present 9, Absent 0.

Also present were City Administrator Charlene Stevens, Police Chief David Wyffels, Community Education and Recreation Director Steve Brisendine, Planning and Development Services Director Bruce Peterson, City Attorney Robert Scott, and City Clerk Kevin Halliday.

The City Council Minutes of October 7, 2013, were removed from the Consent Agenda.

Council Member Ahmann offered a motion adopting the Consent Agenda which included the following: Municipal Utilities Commission Minutes of October 15, Accounts Payable through October 16, Exempt Permit Applications - Willmar Hockey Association and Pheasants Forever Kandiyohi County Chapter 2, Application for Appointment - Community Education/Recreation Board - Andy Boersma, Willmar Lakes Area Convention/Visitors Bureau Minutes of September 17, Willmar Community/Activity Center Board Minutes of October 1, and Airport Commission Minutes of October 9, 2013. Council Member Christianson seconded the motion, which carried.

The Council discussed the October 7, 2013, City Council Minutes. Council Member Nelsen offered a motion that the September 17th Memo from City Administrator Stevens regarding goals and objectives of the Administrator be added to the Labor Relations Committee Minutes of September 17, 2013. Council Member Christianson seconded the motion, which carried.

The Council Minutes of October 7, 2013, as amended were then approved upon a motion by Council Member Nelsen, seconded by Council Member Anderson, and carried.

Mayor Yanish acknowledged that no one had signed up to address the City Council during its scheduled Open Forum.

The Finance Committee Report for October 14, 2013, was presented to the Mayor and Council by Council Member Anderson. There were eight items for Council consideration.

Item No. 1 Safe House Representatives Bob Bonawitz, Michelle Tejada, and Jen Johnson presented a funding request to the City in the amount of \$37,000 for 2014. Other funding sources for Safe House are diminishing; consequently, new funding avenues are being pursued in order to maintain current staffing levels, particularly the monitors required during family visits. It was noted that some of the other funding sources include Pact 4, United Way, Kandiyohi County, the State of Minnesota Department of Justice, Bremer, etc. Mayor Yanish also addressed the Committee, speaking in favor of funding for this charity.

Kelly Welch and Dale Johnson, representing the City Auditorium Appreciation Group, explained that their purpose is to restore and preserve the City Auditorium. Mr. Welch asked the Council to research and apply for a Legacy Grant as a source of funding to make the necessary improvements to the gun range, which is located in the basement of the Auditorium. He also explained that in the future they will be submitting a funding request to the City for an estimated \$7,000 to cover the cost of brochures, photographs and display graphics promoting the Auditorium. They are in the early stages of this process and do not anticipate a need

for these funds until 2015. Mr. Welch also invited Finance Committee Chair Denis Anderson and Community Development Chair Rick Fagerlie to the next City Auditorium Appreciation Committee meeting on November 5, 2013, at 1:00 p.m. at the Kandiyohi County Historical Society. This matter was for information only.

Item No. 2 Steve Renquist, EDC Executive Director, reviewed the EDC 2014 Budget with the Committee. Anticipated revenue for 2014 includes the County Tax Levy of \$455,000, which has not changed in five years, plus \$9,262 in other miscellaneous revenue. The EDC is also proposing to utilize \$67,445 from the Agency's reserves as a funding source. The overall budgeted expenditures for 2014 total \$531,707 which is an increase of \$29,000 over the 2013 budget. Mr. Renquist stated that he is proposing a \$5,000 increase in the salaries for the Assistant Director and the Ag Specialist; however, the EDC operations board has not yet approved this increase. All other salary increases for the EDC will be the blended rate of approved City and County salary increases.

The Committee was recommending the Council approve the proposed EDC 2014 Budget as presented including the Tax Levy. Council Member Anderson moved to approve the recommendation of the Finance Committee with Council Member Fagerlie seconding the motion. Following discussion, Council Member Johnson offered a motion to table the matter pending the Economic Development Commission Board meeting of October 29, 2013. Council Member Ahmann seconded the motion, which carried.

Item No. 3 The Housing and Redevelopment Authority 2014 proposed budget presentation will be presented at the October 28, 2014, Finance Committee meeting. This matter was for information only.

Item No. 4 David Euerle of Westberg & Eischens presented the City of Willmar's 2012 Financial Statement to the Committee. He explained that not only do they perform an audit of the Financial Statement itself, but they also audit the City's compliance with State and Federal requirements. He stated there were no compliance issues at the City as of 2012, but there was one finding with the Financial Statement in regard to accounting for the retirees' benefits liability. To correct this finding, the City is required to hire an Actuary to formally determine the amount to be accrued. Mr. Euerle reported that the General Fund is in good shape with the Fund Balance at the end of 2012 well over average annual expenditures. There were also no issues in the other governmental funds. He noted that the Waste Treatment Plant, which is an enterprise fund, reflects a negative change in Net Position at the end of 2012, which further supports the rate increase recently instituted.

Mr. Euerle recommended the City amend its budget policy by either: 1) formally recognizing any budget overruns by department and acknowledging that there is adequate revenue to cover the excess overage, or 2) approving a budget amendment prior to year end. Chair Anderson asked Staff to determine a recommendation to amend the budget policy for the Council to review and approve.

It was also noted that the Fund Balance Policy will be reviewed and enhanced after the first of the year to better indicate the type of fund balances required for each fund. This matter was for information only.

Item No. 5 Chair Anderson asked the Committee if they need further information on any of the budget topics discussed to date, such as the Community Group requests, Capital Expenditures, or specific line item detail. He also asked if there is any part of the unresolved budget issues on which the Committee can come to a consensus.

Council Member Nelsen explained that with looming retirements, the City would best be served by conducting succession planning. To do that, the budget amounts cut by the Mayor should be restored to the original estimates. Council Member Fagerlie felt that a portion could be restored but not to the full amount. Council Member Johnson was still concerned that exact information was not presented regarding which expenditures are mandatory and which are just beneficial. Council Member Nelsen wondered how the Council could expect to receive iPads and training but not allow Staff to be trained in their respective areas. She also felt the City needs to include diversity training for Staff. Concerns were discussed regarding professional services cuts, particularly for legal services, the airport management contract, and the required annual audit services.

Chair Anderson is concerned that the Council will be unable to resolve all the budget issues by the last meeting in November. Council Member Nelsen asked again if the Mayor would provide his reasons for reducing the specific budget line items to establish a starting place for resolving the issues.

Council Member Johnson expressed concern about the deteriorating conditions of the Auditorium, Civic Center and Community Center. He feels the City need to maintain the major capital items we currently have before pursuing new projects. The Committee agreed to schedule another work session to discuss capital expenditures.

Questions were raised regarding the Safe Avenues funding request, particularly on clarification of their budget as well as how the City's contribution would affect it. It was noted that Staff will be obtaining a legal opinion as to whether a contribution to Safe Avenues would meet public purpose. Council Member Nelsen felt the community groups should present their requests again.

Chair Anderson determined that the Committee agrees on two items: 1) the Mayor needs to clarify his reasons for cutting various line items; and 2) there should be a Council work session to discuss capital expenditures.

Chair Anderson requested the Committee consider changing the budget meeting originally scheduled for Monday, November 25, 2013, to Tuesday, November 19, 2013, to enable Staff adequate time to complete the Council's final amendments to the 2014 budget before the following Council meeting. Following discussion, the Committee was recommending the Council change the budget meeting date to Tuesday, November 19, 2013. Council Member Anderson moved to approve the recommendation of the Finance Committee with Council Member Fagerlie seconding the motion, which carried.

Item No. 6 The Committee received the August, 2013, reports for Rice Trust and Rice Hospital. It was noted that representatives from the Hospital and Municipal Utilities will attend a future meeting prior to the November 19, 2013, meeting to discuss their budgets. This matter was taken for information only.

Item No. 7 There was no old business to discuss at this time.

Item No. 8 Chair Anderson acknowledged there was no new business to discuss at this time.

The Finance Committee Report for October 14, 2013, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Anderson, seconded by Council Member Fagerlie, and carried.

The Public Works/Safety Committee Report for October 15, 2013, was presented to the Mayor and Council by Council Member Christianson. There were seven items for Council consideration.

Item No. 1 There were no public comments.

Item No. 2 Fire Chief Hendrickson gave a brief update on recent Fire Department calls. To date there have been 225 calls and between four and one half and five million dollars in property damages.

Item No. 3 The City is in receipt of the BNSF Grade Crossing Construction and Maintenance Agreement for the proposed Willmar Avenue Quiet Zone. The agreement is very similar to the one completed for the Trott Avenue Crossing. An additional \$2,000.00 for administrative costs is requested for payment at this time in addition to the \$15,000.00 easement previously authorized. The project can still be constructed this year with exception of the signals.

The Committee was recommending the Council approve the Willmar Avenue Grade Crossing Agreement with BNSF and authorize the City Administrator to execute the same. Resolution No. 1 was introduced by Council Member Christianson, seconded by Council Member Nelsen, reviewed by Mayor

Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 1

BE IT RESOLVED, that the City of Willmar enter into an agreement with the BNSF Railway Company for the installation and maintenance of railroad crossing signals at the intersection of Willmar Avenue SW with the tracks of the BNSF Railway Company at Mile Post 1.14 in Willmar, Kandiyohi County, Minnesota.

Dated this 21st day of October, 2013.

/s/ Frank Yanish
MAYOR

/s/ Charlene Stevens
Attest: CITY ADMINISTRATOR

Item No. 4 The Committee considered a proposed Dangerous Animals Ordinance presented by Chief Wyffels. State Statute does address dangerous animals, although it does not allow due process for the owner. Attorneys Tom Anderson and Sam Weeks, both representing the City, were in attendance to address questions of the Committee. The proposed ordinance addresses the City's need to allow a procedure to declare an animal as "potentially dangerous" or as a "dangerous animal." It also designates and defines the "animal control authority" for the City. These deficiencies prevent the Willmar Police, City Prosecutor and the District Court from taking the action necessary to protect the public from animals that would otherwise be deemed to be potentially dangerous or dangerous under Minnesota Statute Chapter 347.

Once an animal is deemed potentially dangerous, the animal control authority shall notify the owner(s) of the animal in writing or in person of that distinction and the specifics of what is required by the owner. If there are subsequent offenses or the owner fails to comply with the conditions imposed by the animal control authority or this Committee, the animal must be seized. The owner then has 14 days to request a hearing. If they do not, the Willmar Public Works and Public Safety Committee may order the animal destroyed. If the owner is found not to have violated the conditions, they may reclaim the animal. If an animal is deemed as a dangerous animal, it shall be seized and the same procedures would apply.

Following discussion, the Committee was recommending the Council introduce the Dangerous Animal Ordinance for hearing. Council Member Christianson offered a motion to introduce an Ordinance Creating a Chapter 4, Article III, Dangerous Animals and schedule a public hearing for November 4, 2013. Council Member Ahmann seconded the motion, which carried.

Item No. 5 The Dangerous Weapons Ordinance was brought back to the Committee for further review. Chief Wyffels and City Attorney Scott were directed to prepare an amendment to the dangerous weapons ordinance using language similar to an ordinance currently in place in Hutchinson, MN. The proposal only allows the discharge of bows and arrows in authorized physical education programs in a school under supervision of a faculty member, at a community-wide supervised class authorized by the Chief or Police, or at bow and arrow range specifically established and so designated by the City Council.

The Committee determined the Ordinance excluded the use of bow and arrows on approved waterways with retractable arrows. Staff was directed to revise the Ordinance to allow such activities, and this matter was for information only.

Item No. 6 Chief Wyffels informed the Committee that the jail census was at 85 and the report of calls for the last two weeks at 795. This matter was for information only.

Item No. 7 Council Member DeBlieck questioned the traffic control over the First Street Bridge and was informed by Staff that it was set up in error and would be removed. DeBlieck also informed the Committee that the wind turbines remain inoperable and that WMU continues to be in contact the installer.

Council Member Ahmann brought the issue of storm water drainage at 309 SW 9th Street before the Committee. On the adjacent property, a house was demolished and replaced by a parking lot whereby the owner believes the storm water runoff was altered. Staff explained the situation and noted the property owners are making changes to help resolve the issue. This matter was for information only.

The Public Works/Safety Committee Report for October 15, 2013, was approved as presented upon motion by Council Member Christianson, seconded by Council Member Ahmann, and carried.

Council Member Ahmann brought up concerns with the St. Mary's Church sidewalk on Kandiyohi Avenue noting an obvious design flaw of Bollig Engineering. He was assured corrections were being undertaken, but directed Staff to ask Brian Bollig to attend the next Public Works/Safety Committee meeting.

The Labor Relation Committee Report for October 16, 2013, was presented to the Mayor and Council by Council Member Ahmann. There were five items for Council consideration.

Item No. 1 The meeting was called to order.

Item No. 2 There were no public comments offered.

Item No. 3 Committee Members considered an Ordinance Amending Willmar Code Chapter 2, Administration, Article II, Officers and Employees, City Attorney. Pursuant to direction from the Willmar City Charter regarding the duties of the City Attorney be enumerated in a City Ordinance, the Committee reviewed the first draft prepared by Robert Scott of Flaherty and Hood. The Committee reviewed the tasks listed and found everything to be in order. Council Member Christianson inquired whether a comment on the Attorney/Client privilege should be included.

Following discussion, no amendments were offered and Council Member Anderson moved to introduce the Ordinance and hold a public hearing on November 4, 2013. Council Member Dokken seconded the motion, which carried.

Item No. 4 Committee Members reviewed data prepared by Staff for a Council Planning Retreat. It was noted Staff had secured quotes from Neu & Company with Dr. Carl Neu and Big River Group, LLC with Bruce Miles. The Committee discussed what they wanted to accomplish in the retreat including a desire to work on policy development, understanding the City Charter and incorporating the Charter direction as Council policy. It was noted that although the Mission Statement seems adequate, goals and objectives should be reviewed and made current. Also discussed were the various personalities and roles and relationships with administration. It was further noted that once the retreat is concluded, a six-month follow up should be implemented to monitor progress. The Committee discussed the dollar amounts and concepts offered by both consultants.

Following discussion of the dollar amounts and concepts offered by both consultants, the Committee was recommending the Council accept the proposal of Neu & Company. Council Member Ahmann moved to approve the recommendation of the Labor Relations Committee with Council Member Anderson seconding the motion, which carried.

The Committee then continued to discuss the location and time to hold the retreat. Various dates were discussed, suggesting that offsite locations be considered. The Committee directed Staff to reserve a retreat facility as discussed.

City Clerk Halliday informed the Mayor and Council that the retreat has been scheduled for November 22, 2013, at the Prairie Woods Environmental Learning Center.

Item No. 5 Council Member Ahmann discussed capital improvement activity and the need to

clarify how to prioritize various projects, complete with funding for each project, and the ranking of the project. This discussion excluded street improvements and vehicle replacements. This matter was for information only.

Council Member Ahmann brought up the review of City Administrator Goals and Objectives which were submitted to the Labor Relations Committee. He was advocating for a better plan of written objectives stated for the coming year with all those objectives submitted to the Council Members and Mayor for review. Feedback should be given to the Labor Relations Committee and indicated the need for the Committee to consider all feedback and finalize the objectives of the coming year with written quarterly review of the progress at the Labor Relations Committee. This matter was for information only.

The Labor Relations Committee Report for October 16, 2013, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Ahmann, seconded by Council Member Dokken, and carried.

The Community Development Committee Report for October 17, 2013, was presented to the Mayor and Council by Council Member Fagerlie. There were three items for Council consideration.

Item No. 1 There were no public comments.

Item No. 2 Staff presented to the Committee a proposed policy to write down the cost of land in the Industrial Park. The policy is necessary to stay competitive with other communities in offering our Industrial Park properties for sale. Steve Renquist, Economic Development Committee Director, emphasized a need for competitive sales of property and to further the ability of Staff to market the properties. Staff noted that the real value of the land lies in its ability to grow jobs and tax base. The Committee discussed the value of the Industrial Park to the region. Staff agreed that the policy was really a region wide benefit in that the infrastructure for the Industrial Park was being paid for by Local Option Sale Tax funding. Those funds were collected in the City of Willmar from all shoppers and visitors. It was noted that the proposed policy should be changed so that the reference in No. 5 was for State Statutes Chapter 469 and 116 J, not Chapter 169.

Steve Renquist, Economic Development Committee Director, was present to clarify competition in neighboring cities and the need to offer below market prices.

The Committee was recommending the Council adopt the policy with the change to the statute language. Council Member Fagerlie moved to approve the recommendation of the Community Development Committee with Council Member Dokken seconding the motion, which carried.

Item No. 3 The Committee received from Staff an update on the status of the Rule family's attempt to gift the property to the City. The family has expressed urgency in completing a transaction or else they are going to let the property go tax forfeiture. Recently another not-for-profit has come forward, who would like to have the property and use it for a parking lot. The parking lot would keep the property on the tax rolls. Staff was recommending that the City continue to work as a liaison between the parties and to try to complete the gift of the property to the other non-profit organization. Failing that, it was staff's recommendation that the Council accept the property as a gift.

The Committee was recommending to the Council that the City accept the Rule property as a gift unless they are able to complete the transaction with the other not-for-profit entity; also, that the matter be referred to Finance to determine a source of demolition funding estimated at \$60,000. In condition to the City acceptance would be that all real state taxes and penalties be paid and there be no encumbrances on the property.

Council Member Fagerlie moved to approve the recommendation of the Community Development Committee with Council Member Dokken seconding the motion, which carried.

The Community Development Committee Report for October 17, 2013 was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Fagerlie, seconded by Council Member DeBleick, and carried.

Under old business Council Member DeBleick inquired if the Labor Relations Chair made a decision on his appointee, if needed, to sit on the Department Head hiring panel. Council Member Ahmann indicated he was not leaning on just one appointee and that he didn't want the Chairman to be in charge of all the interviewing.

Following discussion, Council Member Nelsen offered a motion that the Council follow City Attorney Scott's emailed recommendation of September 6, 2013, which recommended that whoever serves as Labor Relations Committee Chair work with the City Attorney on basic legal standards and requirements for conducting interviews. Council Member DeBleick seconded the motion. Council Member Ahmann opined that all members of the Labor Relations Committee should be properly trained.

Council Member Ahmann amended the motion to mandate that all four Labor Relations Committee members take the training and that training be optional for other Council Members and that any Labor Relations Committee member be allowed on the interview panel for the selection of a Department Head. Council Member Fagerlie seconded the motion, which passed on a voice vote of Ayes 6, Noes 2 - Council Member Nelsen and DeBleick voted "No." The original motion then passed unanimously.

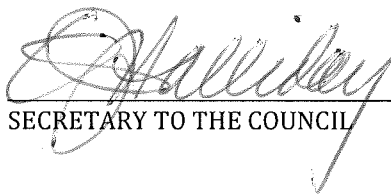
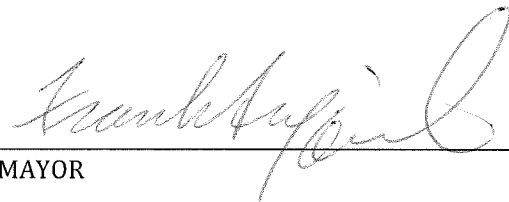
Council Member Fagerlie requested that he be excused from the November 4, 2013, Council meeting.

Announcements for Council Committee meeting dates were as follows: Finance, October 28, and Public Works/Safety, October 29, 2013.

There being no further business to come before the Council, the meeting adjourned at 8:36 p.m. upon motion by Council Member Christianson, seconded by Council Member Anderson, and carried.

Attest:

MAYOR


SECRETARY TO THE COUNCIL